**Department of Health and Human Services**

# OFFICE OF INSPECTOR GENERAL

## The External Review of Hospital Quality

### A Call for Greater Accountability

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# EXECUTIVE SUMMARY

## PURPOSE

To provide a summary and recommendations based on our assessment of the external review of hospitals that participate in Medicare.

## BACKGROUND

### External Quality Review of Hospitals in the Medicare Program

Hospitals are a vital part of our healthcare system, routinely providing valuable services. But they are also places where poor care can lead to unnecessary patient harm. This reality was clearly underscored in 1991, when a Harvard medical practice study revealed the results of its review of about 30,000 randomly selected records of patients hospitalized in New York State during 1984. The study found that 1 percent of the hospitalizations involved adverse events caused by negligence. On the basis of these findings, it estimated negligent care in New York hospitals in that year was responsible for about 27,000 injuries, including almost 7,000 deaths and close to 1,000 instances of "permanent and total disability." More recently, a 1997 study of about 1,000 hospitalized patients in a large teaching hospital found that almost 18 percent of these patients received inappropriate care resulting in a serious adverse event. In the public eye, such scholarly inquiries have been overshadowed by media reports that describe, often in graphic detail, the harm done to patients because of poor hospital care.

Hospitals rely upon many internal mechanisms to avoid such incidents and to improve the quality of care. External review serves as an additional safeguard. The Federal government relies primarily on two types of external review to ensure hospitals meet the minimum requirements for participating in Medicare: accreditation, usually by the Joint Commission on Accreditation of Healthcare Organizations, and Medicare certification, by State Agencies. About 80 percent of the 6,200 hospitals that participate in Medicare are accredited by the Joint Commission.

### This Summary Report

This report synthesizes the findings we present in three parallel reports. It is based on our broad inquiry of the external quality oversight of hospitals, for which we drew on aggregate data, file reviews, surveys, and survey observations from a rich variety of sources, including the Health Care Financing Administration (HCFA), the Joint Commission, State agencies, and other stakeholders.

The report, as our study as a whole, focuses on the roles played by the Joint Commission and the State agencies in reviewing hospitals and by HCFA in overseeing these bodies. Other bodies, most especially the Medicare Peer Review Organizations and State Professional Licensure Boards, play important related roles. We have reviewed their performance in numerous prior studies and will continue our examination of them in future studies. They are not discussed in this report.

## FINDINGS

### The current system of hospital oversight has significant strengths that help protect patients.

**Joint Commission surveys provide an important vehicle for reducing risk and fostering improvement.** Hospital leadership takes these accreditation surveys seriously. Hospitals spend months preparing for them, seeking to ensure that their hospitals meet and, where possible, exceed the Joint Commission's standards.

**State agency investigations offer a timely, publicly accountable means for responding to complaints and adverse events.** The HCFA funds these investigations as a high priority. For both accredited and nonaccredited hospitals, they serve as a significant front-line response to major incidents involving patient harm.

### But it also has major deficiencies.

**Joint Commission surveys are unlikely to detect substandard patterns of care or individual practitioners with questionable skills.** Quick-paced, tightly structured, educationally oriented surveys afford little opportunity for in-depth probing of hospital conditions or practices. Rather than selecting a random sample, the surveyors tend to rely on hospital staff to choose the medical records for review. Further, the surveyors typically begin the process with little background information on any special problems or challenges facing a hospital.

**The State agencies rarely conduct routine, not-for-cause surveys of nonaccredited hospitals**. The percent of nonaccredited hospitals that have not been surveyed within the 3-year industry standard has grown from 28 percent in 1995 to 50 percent in 1997. In some cases, nonaccredited hospitals, usually in rural areas, have gone as long as 8 years without a survey.

### Overall, the hospital review system is moving toward a collegial mode of oversight and away from a regulatory mode.

A collegial mode of oversight is one that focuses on education and improved performance. It emphasizes a trusting approach to oversight, rooted in professional accountability and cooperative relationships. A regulatory mode focuses on investigation and enforcement of minimum requirements. It involves a more challenging approach to oversight, grounded in public accountability. It is helpful to consider external hospital oversight in terms of a continuum, characterized by the collegial approach on one side and the regulatory approach on the other.

**The Joint Commission, the dominant force in external hospital review, is leading this movement.** It is grounded in a collegial approach to review that stresses education and improvement. It focuses on systems in its quest to improve hospital processes and patient outcomes.

**The State agencies are rooted in a more regulatory approach to oversight. But HCFA, through the proposed Medicare conditions of participation, is looking for them to follow the Joint Commission's lead.** Traditionally, the State agencies have emphasized investigatory approaches that aim to protect patients from harm more than to improve the overall standard of care. The proposed conditions call for them to move in a direction parallel to that of the Joint Commission.

**The emerging dominance of the collegial mode may undermine the existing system of patient protection afforded by accreditation and certification practices. It contrasts significantly with the current regulatory emphasis in nursing home oversight.** Both the collegial and regulatory approaches to oversight have value. As the system increasingly tilts toward the collegial mode, however, it could result in insufficient attention to investigatory efforts intended to protect patients from questionable providers and substandard practices.

For nursing homes, recent concerns about the quality of care provided have led to a HCFA crack-down involving more immediate penalties, surprise surveys, and posting of survey results on the Internet, with scant attention to collegial approaches. Such a heavy regulatory emphasis may well not be required for hospitals, but it does reinforce the point that when patients are found to be at risk, regulatory approaches have an important part to play. As we have noted, many recent studies and media reports make it clear that hospitals, too, are places where inappropriate care can and frequently does put patients at risk.

## The HCFA does little to hold either the Joint Commission or the State agencies accountable for their performance overseeing hospitals.

**The HCFA obtains limited information on the performance of the Joint Commission or the States.** In both cases, HCFA asks for little in the way of routine performance reports. To assess the Joint Commission's performance, HCFA relies mainly on validation

surveys conducted, at HCFA's expense, by the State agencies. But for a number of reasons the value of these surveys has been limited. The methodology for selecting the hospitals to survey fails to consider hospital size, type, or past performance. More fundamentally, the surveys have been based on different standards (the Medicare Conditions of Participation as opposed to the Joint Commission standards) and have been conducted subsequent to the Commission's surveys (when hospital conditions could have changed). During 1996 and 97, HCFA piloted 20 observation surveys--during which State and HCFA officials accompanied Joint Commission surveyors. This approach appears to have much promise, but HCFA has not yet issued any evaluation of the pilots.

The HCFA observes few hospital surveys conducted by State agencies and conducts no validation surveys of them.

**The HCFA provides limited feedback to the Joint Commission and the State agencies on their overall performance.** Its feedback to the Joint Commission is more deferential than directive. Its major vehicle for feedback to the Joint Commission is its annual Report to Congress, which is based on the validation surveys and has typically been submitted years late. The HCFA is more directive to the State agencies, which carry out their survey work in accord with HCFA protocols, but gives them little feedback on how well they perform their hospital oversight work.

**Public disclosure plays only a minimal role in holding Joint Commission and State agencies accountable.** The HCFA makes little information available to the public on the performance of either hospitals or of the external reviewers. By contrast, HCFA posts nursing home survey findings on the Internet and requires nursing homes to post them as well. The Joint Commission has been more proactive than HCFA in making hospital survey results widely available on the Internet and through other means.

## RECOMMENDATIONS

We offer one guiding principle and two recommendations that set forth ways in which HCFA can, over time, provide leadership to address the shortcomings we have identified in our inquiry, holding the Joint Commission and State agencies more accountable for their performance.

### GUIDING PRINCIPLE: The HCFA, as a guiding principle, should steer external reviews of hospital quality so that they ensure a balance between collegial and regulatory modes of oversight.

The HCFA must recognize that both approaches have value and that a credible system of oversight must reflect a reasonable balance between them. In our assessment, a balanced system would involve the continued presence of on-site hospital surveys, both announced and unannounced; an ongoing capacity to respond quickly and effectively to

complaints and adverse events; further development and application of standardized performance measures; and, even though it is not much in evidence at this time, a mechanism for conducting retrospective reviews of the appropriateness of hospital care. A balanced system would also be one in which performance measures are used to protect patients from harm as well as to improve the standard of care.

In its steering role, HCFA must recognize the inherent strengths and limitations of accrediting bodies and the State agencies. Each contributes to the external review of hospitals, but they do so differently. Thus, in steering, HCFA should look to the Joint Commission to tilt (but not too far) toward the collegial end and the State agencies to tilt (but not too far) toward the regulatory end.

**RECOMMENDATION 1: The HCFA should hold the Joint Commission and State agencies more fully accountable for their performance in reviewing hospitals.**

▸ Revamp Federal approaches for obtaining information on Joint Commission and State agency performance by de-emphasizing validation surveys, giving serious consideration to the potential of observation surveys, and calling for more timely and useful reporting of performance data.

▸ Strengthen Federal mechanisms for providing performance feedback and policy guidance to the Joint Commission and State agencies. Given the major role played by the Joint Commission, the public purposes associated with its special deemed status authority, and the importance of achieving a more balanced system of external review, HCFA should negotiate with the Joint Commission to achieve the following changes:

Conduct more unannounced surveys.
Make the "accreditation with commendation" category more meaningful, or do away with it altogether.
Introduce more random selection of records as part of the survey process.
Provide surveyors with more contextual information about the hospitals they are about to survey.
Jointly determine some year-to-year survey priorities, with an initial priority on examining credentials and privileges.
Conduct more rigorous assessments of hospitals' internal continuous quality improvement efforts.
Enhance the capacity of surveyors to respond to complaints within the survey process.

▸ Assess periodically the justification for the Joint Commission's deemed status authority.

▸ Increase public disclosure on the performance of hospitals, the Joint Commission, and State agencies, by, at a minimum, posting more detailed information on the Internet.

### RECOMMENDATION 2: The HCFA should determine the appropriate minimum cycle for conducting certification surveys of nonaccredited hospitals.

Nonaccredited hospitals are subject to limited external review other than those reviews triggered by complaints and adverse events. Unlike nursing homes and home health agencies, hospitals lack a mandated minimum cycle for surveys. While complaints and adverse events may well warrant priority over routine surveys, such surveys play an important role in external review, and by determining a minimum cycle HCFA can increase the level of attention to hospital oversight.

## COMMENTS

Within the Department of Health and Human Services, we received comments on our draft reports from HCFA--the Departmental agency to which all of our recommendations are directed. We also solicited and received comments from the following external organizations: the Joint Commission on Accreditation of Healthcare Organizations, the Association of Health Facility Survey Agencies, the American Osteopathic Association, the American Hospital Association, the American Association for Retired Persons, the Service Employees International Union, the National Health Law Program, and Public Citizen's Health Research Group. In appendix E, we present each organization's comments in full. Below, we summarize the thrust of the comments and, in italics, offer our responses.

### HCFA Comments

The HCFA reacted positively to our findings and recommendations. It offered a detailed hospital oversight plan that incorporates our many recommendations. The plan reflects HCFA's commitment to more frequent surveys of nonaccredited hospitals, to strengthened oversight of both the State agencies and the Joint Commission, and to a balance between collegial and regulatory approaches to oversight. In addition, HCFA presented a hospital performance measurement strategy based on developing standardized performance measures that are consumer- and purchaser-driven and that are in the public domain.

*The HCFA's action plan is highly responsive to the recommendations we set forth. As it is carried out, it can be of considerable value in improving patient safety and the quality of patient care.*

## Joint Commission and Association of Health Facility Survey Agencies Comments

The Joint Commission and the State survey agencies, which the Association of Health Facility Survey Agencies represents, are the two key parties that HCFA relies upon to conduct external reviews of hospital quality. The Joint Commission agreed with the principle of balance between collegial and regulatory approaches, but regarded our concerns about an emerging dominance of the collegial approach to be unfounded. It also objected to the limitations we cited about its survey approach and to our conclusion that the Joint Commission devotes minimal attention to complaints. It did express support for stronger, more performance-oriented HCFA oversight of the Joint Commission. The Association, while agreeing with the thrust of our assessment, noted some reservations about phasing out the validation surveys in favor of an observation survey approach that is largely untested.

*We stress here, as we did in the text, the importance of a balance in oversight that avoids tilting too far toward either the collegial or the regulatory ends. We believe that we established credible bases for such a balanced approach. Similarly, we believe that our assessments of Joint Commission practices are balanced and well-supported. We identified various strengths that the Joint Commission brings to the field of quality oversight. We regard the limitations that we cited as an important part of the overall picture. With respect to the Association's reservations about the observation surveys as a tool of oversight, we suggest that the problems we pointed out about the validation process are significant ones and that the potential of the observation surveys is compelling enough to warrant further exploration.*

## Comments of Other External Organizations

Overall, the other stakeholder organizations offered considerable support for our findings and recommendations. But they also expressed concerns. The American Hospital Association took issue with how we applied the collegial and regulatory concepts and stressed that hospital liability concerns preclude the kind of public disclosure we urge. The American Osteopathic Association noted reservations about more unannounced surveys and suggested that a closer review of medical care during on-site surveys would be more productive. The American Association of Retired Persons agreed with the thrust of our recommendations.

The Service Employees International Union, the National Health Law Program, and Public Citizen's Health Research Group called for even stronger Federal actions than we recommended. These included a stronger emphasis on regulatory approaches, greater reliance on unannounced surveys, more extensive public disclosure, and firmer HCFA action in overseeing the Joint Commission and in reassessing its deeming authority.

*These stakeholders raise concerns and urge directions that we often heard expressed during our study. As HCFA carries out its hospital quality oversight plan, we suggest that it take these perspectives into account. We believe that our recommendations (and HCFA's announced action plan) sets forth a balanced course of action that draws to some degree on the insights of each of these stakeholders. This course is one that can substantially improve the external review of hospital quality in the years ahead.*